

Respondent describes the issue as whether claimant's current complaints and condition in his hip and low back are work related. Before reaching the merits of this appeal, the Appeals Board must first decide the issue of the Appeals Board's jurisdiction to decide the referral for an independent medical examination (IME) and temporary total disability question on an appeal from a preliminary hearing order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board has limited jurisdiction on appeals from preliminary hearing orders.¹ The Appeals Board may review allegations that the Administrative Law Judge (ALJ) exceeded his jurisdiction, including allegations that the ALJ erred on jurisdictional issues listed in K.S.A. 1999 Supp. 44-534a. The issue presented by respondent in this appeal is not subject to review at this stage of the proceedings. The order for an IME and for a continuation of temporary total disability compensation did not constitute a finding that claimant's latest complaints are compensable. Instead, the ALJ deferred his determination of that issue pending receipt of the IME report on the question of causation. Furthermore, it does not appear the continuation of temporary total disability compensation was intended as a determination of the causation issue. The Order does not specify the condition that is causing claimant to be temporarily and totally disabled. The language that the ALJ used suggests a continuation of temporary total disability payments which were initially ordered as a result of the claimant's foot condition.² Whether or not claimant remains temporarily and totally disabled from the foot condition does not give rise to a jurisdictional issue.

WHEREFORE, the Appeals Board finds that it does not have jurisdiction to review the August 9, 2000 Order entered by Administrative Law Judge Steven J. Howard and that this appeal should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of October 2000.

BOARD MEMBER

c: James E. Martin, Overland Park, KS
Frederick L. Haag, Wichita, KS
Steven J. Howard, Administrative Law Judge
Philip S. Harness, Director

¹ K.S.A. 1999 Supp. 44-551(b)(2)(A).

² Preliminary Hearing Order dated August 4, 1999, affirmed by Appeals Board Order dated December 14, 1999.